



LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **HB 790** HLS 09RS 1363
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

Date: May 30, 2009	2:14 PM	Author: GREENE
Dept./Agy.: Revenue/Economic Development		
Subject: Extends the credit, removes transfer, changes rates, refund		Analyst: Deborah Vivien

TAX CREDITS EG -\$11,600,000 GF RV See Note Page 1 of 2
Provides relative to the amount of the research and development tax credit and makes the tax credit refundable

Current law allows a credit against personal and corporate income tax and corporate franchise tax for any taxpayer receiving a federal research and development credit under Title 26 Section 41 of U.S. Code. The credit is available on the state’s apportioned share of the increased research and development expenses above a defined base at the rate of 8% for those employing 500 or more Louisiana residents and 20% for those employing fewer than 500 Louisiana residents or, if the federal alternative incremental tax credit is claimed, 25% of the state apportioned share. For recipients of the Small Business Innovation Research (SBIR) grants, a credit of 20% of the award is available. The credits are transferable and may be carried forward for up to ten years. The credit is in place for expenditures made on or before December 31, 2009.

(CONTINUED AS BILL SUMMARY ON PAGE 2)

EXPENDITURES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	\$0	(\$11,600,000)	(\$11,600,000)	(\$11,600,000)	(\$11,600,000)	(\$46,400,000)
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	(\$11,600,000)	(\$11,600,000)	(\$11,600,000)	(\$11,600,000)	(\$46,400,000)

EXPENDITURE EXPLANATION

The Department of Revenue reports the potential cost of making changes to the tax processing system to incorporate the changes in this legislation, including programming time and form modification, to be a one-time cost of some \$75,000. The Department of Economic Development reports that administration of this legislation will require no additional resources.

REVENUE EXPLANATION

There are three adjustments to the current credit in this legislation that may have a significant fiscal impact:

Credit calculation changes

The bill will lower the state credit from 20% to 8% of the increase in expenditures made in the state on qualified research activity for those employing between 100 and 499 Louisiana residents. Under the current legislation, the increase is calculated as the state’s apportioned share of the growth in qualified research expenses above the base amount (as determined under Title 26, Section 41 of U.S. Code). This bill removes the statutory calculation of the increase in research expenditures (Section (C)(3)). The bill will increase the state credit from 20% of the increase in expenditures (as defined previously) to 40% of total qualified expenditures made in the state. The effects of changing or eliminating credit calculations may have a net positive effect on the state general fund by decreasing available credits by about \$300,000, depending on the research and development activity that qualifies. Should research/development activity deviate significantly from FY 07/08 levels, this amount could change. The first year impact is indeterminant due to the offsetting effects of rates changes and eliminations along with the proportion of each among the applications to be filed.

Four year extension of the credit

This bill extends the credit for four years to December 31, 2013. According to the Department of Economic Development, credits granted over the years have fluctuated, in part, due to distortions caused by the bundling of retroactive expenses. To the extent that the retroactive filings and level of expenses maintain historical levels and patterns, extending the credit beyond tax year 2009 will produce an exposure consistent with the figures above. Credits awarded in prior fiscal years are as follows: FY04/05 \$5.6M, FY05/06 \$8.0M, FY06/07 \$19.6M, FY07/08 \$14.9 and FY08/09 year-to-date \$5.7M; averaging \$11.9 million per year. The Revenue Department reports average credits realized over the past three years of \$10.3 million.

(CONTINUED AS REVENUE EXPLANATION ON PAGE 2)

Senate	Dual Referral Rules	House	
<input type="checkbox"/> 13.5.1 >= \$500,000 Annual Fiscal Cost		<input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost	
<input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease	<div>Gregory V. Albrecht Gregory V. Albrecht Chief Economist</div>



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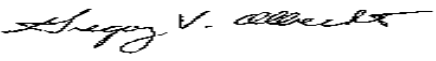
CONTINUED EXPLANATION from page one: Page 2 of 2
BILL SUMMARY (CONTINUED)

Proposed law retains current law but extends the credits by four years to December 31, 2013. The transferability and carry-forward provisions of the credits are removed, but the credits are made refundable. For those employing 100 or more Louisiana residents, the credit rate is lowered from 20% to 8% of increased expenditures. The credit rate for those employing fewer than 50 Louisiana residents increases from 20% to 40% of total qualifying expenditures, no longer based only on increased expenditures. For recipients of the Small Business Innovation Research (SBIR) grants, the credit is increased from 20% to 40% of the award.

Effective upon governor's signature.

REVENUE EXPLANATION (CONTINUED)

Changing the credits from transferable with carry-forward to refundable
The credits are currently transferable and allow for a ten year carry-forward. This bill removes those provisions and makes the credits refundable. Refundable credits are typically utilized within the first tax cycle minimizing the lag between amounts awarded (state exposure) and amounts realized against tax liabilities. Historically, actual collections compared to credits certified indicates that about \$1 million in credits are taken in subsequent years. Thus, credits awarded each year are more likely to be realized against state tax liabilities immediately after certification. Thus, the annual average award figure (less \$300,000 per year) is utilized as the likely effect of this bill.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	
<input type="checkbox"/> 13.5.1 >= \$500,000 Annual Fiscal Cost		<input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost	
<input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease	Gregory V. Albrecht Chief Economist